

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Finance, to which was referred Senate Bill No. 166, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 6-3.5-1.1-9 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 9. (a) Revenue derived
- 7 from the imposition of the county adjusted gross income tax shall, in
- 8 the manner prescribed by this section, be distributed to the county that
- 9 imposed it. The amount to be distributed to a county during an ensuing
- 10 calendar year equals the amount of county adjusted gross income tax
- 11 revenue that the department, after reviewing the recommendation of the
- 12 state budget agency, ~~estimates will be received from that county during~~
- 13 ~~the twelve (12) month period beginning July 1 of the immediately~~
- 14 ~~preceding calendar year and ending June 30 of the ensuing calendar~~
- 15 ~~year; determines has been:~~
- 16 (1) received from that county for a taxable year ending before
- 17 the calendar year in which the determination is made; and
- 18 (2) reported on an annual return or amended return
- 19 processed by the department in the state fiscal year ending

1 **before July 1 of the calendar year in which the determination**
 2 **is made;**
 3 **as adjusted (as determined after review of the recommendation of**
 4 **the budget agency) for refunds of county adjusted gross income tax**
 5 **made in the state fiscal year.**

6 (b) Before ~~July~~ **August** 2 of each calendar year, the department,
 7 after reviewing the recommendation of the ~~state~~ budget agency, shall
 8 ~~estimate and~~ certify to the county auditor of each adopting county the
 9 amount of county adjusted gross income tax revenue that will be
 10 collected from that county during the twelve (12) month period
 11 beginning July 1 of that calendar year and ending June 30 of the
 12 immediately succeeding calendar year: **determined under subsection**
 13 **(a) plus the amount of interest in the county's account that has**
 14 **accrued and has not been included in a certification made in a**
 15 **preceding year.** The amount certified is the county's "certified
 16 distribution" for the immediately succeeding calendar year. The amount
 17 certified ~~may~~ **shall** be adjusted under ~~subsection~~ **subsections (c), or**
 18 **(d), (e), and (f). The department shall provide with the certification**
 19 **an informative summary of the calculations used to determine the**
 20 **certified distribution.**

21 (c) ~~In calendar year 2003,~~ the department ~~may~~ **shall**, ~~after~~
 22 **reviewing the recommendation of the budget agency,** certify to an
 23 adopting county **for distribution in calendar year 2004** an amount
 24 that is ~~greater than~~ **at least equal to** the estimated twelve (12) month
 25 revenue collection if the department, after reviewing the
 26 recommendation of the state budget agency, determines that there will
 27 be a greater amount of revenue available for distribution from the
 28 county's account established under section 8 of this chapter: ~~amount~~
 29 **certified in 2002 for distribution in 2003. However, if the county**
 30 **council reduced the tax rate by ordinance adopted after December**
 31 **31, 2001, the amount certified must reflect the reduced tax rate.**

32 (d) The department ~~may~~ **shall** certify an amount less than the
 33 estimated twelve (12) month revenue collection ~~amount determined~~
 34 **under subsections (b) and (c)** if the department, after reviewing the
 35 recommendation of the ~~state~~ budget agency, determines that a ~~part of~~
 36 **those collections need to be distributed during the current calendar year**
 37 **so that the county will receive its full certified distribution for the**
 38 **current calendar year: the reduced distribution is necessary to offset**

1 overpayments made in a calendar year before the calendar year of
 2 the distribution, including any overpayment resulting from the
 3 application of subsection (c). The department, after reviewing the
 4 recommendation of the budget agency, may reduce the amount of
 5 the certified distribution over several calendar years so that any
 6 overpayments are offset over several years rather than in one (1)
 7 lump sum.

8 (e) The department, after reviewing the recommendation of the
 9 budget agency, shall adjust the certified distribution of a county to
 10 correct for any clerical or mathematical errors made in any
 11 previous certification under this section. The department, after
 12 reviewing the recommendation of the budget agency, may reduce
 13 the amount of the certified distribution over several calendar years
 14 so that any adjustment under this subsection is offset over several
 15 years rather than in one (1) lump sum.

16 (f) The department, after reviewing the recommendation of the
 17 budget agency, shall adjust the certified distribution of a county to
 18 provide the county with the distribution required under section
 19 10(b) of this chapter.

20 SECTION 2. IC 6-3.5-1.1-11, AS AMENDED BY P.L.178-2002,
 21 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JUNE 1, 2003]: Sec. 11. (a) Except for:

23 (1) revenue that must be used to pay the costs of operating a jail
 24 and juvenile detention center under section 2.5(d) of this chapter;

25 (2) revenue that must be used to pay the costs of:

26 (A) financing, constructing, acquiring, improving, renovating,
 27 or equipping facilities and buildings;

28 (B) debt service on bonds; or

29 (C) lease rentals;

30 under section 2.8 of this chapter;

31 (3) revenue that must be used to pay the costs of construction,
 32 improvement, renovation, or remodeling of a jail and related
 33 buildings and parking structures under section 2.7 or 2.9 of this
 34 chapter;

35 (4) revenue that must be used to pay the costs of operating and
 36 maintaining a jail and justice center under section 3.5(d) of this
 37 chapter; or

38 (5) revenue that must be used to pay the costs of constructing,

acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter; the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before ~~August 2~~ **August 10** of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received **by two (2) years**. The percentages are set forth in the following table:

PROPERTY		
COUNTY	TAX	
ADJUSTED GROSS	REPLACEMENT	CERTIFIED
INCOME TAX RATE	CREDITS	SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 3. IC 6-3.5-1.1-21, AS AMENDED BY P.L.178-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21. Before ~~July~~ **October** 2 of each year, the department shall submit a report to each county auditor indicating the following:

(1) ~~The balance in the county's adjusted gross income tax account as of the end of the preceding year.~~ **cut-off date specified by the budget agency.**

(2) ~~The required six (6) month balance, or three (3) month balance if the county has adopted an ordinance under section 9-5~~

of this chapter before the end of the preceding year.

SECTION 4. IC 6-3.5-1.1-21.1, AS ADDED BY P.L.178-2002, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21.1. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year~~ **exists in a county account** in excess of the ~~required six (6) or three (3) month balance;~~ **amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year,** the department may make a supplemental distribution to a county from the county's adjusted gross income tax account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated and used in the same manner as certified distributions.

(c) A determination under this section must be made before ~~July~~ **October 2.**

SECTION 5. IC 6-3.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 2. (a) A county income tax council is established for each county in Indiana. The membership of each county's county income tax council consists of the fiscal body of the county and the fiscal body of each city or town that lies either partially or entirely within that county.

(b) Using procedures described in this chapter, a county income tax council may adopt ordinances to:

(1) impose the county option income tax in its county;

(2) subject to section 12 of this chapter, rescind the county option income tax in its county;

(3) increase the county option income tax rate for the county;

(4) freeze the county option income tax rate for its county;

(5) increase the homestead credit in its county; **or**

(6) subject to section 12.5 of this chapter, decrease the county option income tax rate for the county. ~~or~~

~~(7) subject to section 17.5 of this chapter, elect to reduce the required balance in the county special account.~~

(c) An ordinance adopted in a particular year under this chapter to impose or rescind the county option income tax or to increase its tax

1 rate is effective July 1 of that year.

2 SECTION 6. IC 6-3.5-6-17, AS AMENDED BY P.L.178-2002,
 3 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JUNE 1, 2003]: Sec. 17. (a) ~~Except as provided in section 2.5 of this~~
 5 ~~chapter,~~ Revenue derived from the imposition of the county option
 6 income tax shall, in the manner prescribed by this section, be
 7 distributed to the county that imposed it. The amount that is to be
 8 distributed to a county during an ensuing calendar year equals the
 9 amount of county option income tax revenue that the department, after
 10 reviewing the recommendation of the ~~state~~ budget agency, ~~estimates~~
 11 **will be determines has been:**

12 (1) received from that county ~~during the twelve (12) month period~~
 13 ~~beginning July 1 of the immediately preceding for a taxable year~~
 14 ~~ending in a calendar year and ending June 30 of the ensuing~~
 15 ~~calendar year; preceding the calendar year in which the~~
 16 **determination is made; and**

17 (2) **reported on an annual return or amended return**
 18 **processed by the department in the state fiscal year ending**
 19 **before July 1 of the calendar year in which the determination**
 20 **is made;**

21 **as adjusted (as determined after review of the recommendation of**
 22 **the budget agency) for refunds of county option income tax made**
 23 **in the state fiscal year.**

24 (b) Before ~~June 16~~ **August 2** of each calendar year, the department,
 25 after reviewing the recommendation of the ~~state~~ budget agency, shall
 26 ~~estimate and~~ certify to the county auditor of each adopting county the
 27 amount of county option income tax revenue that will be collected from
 28 that county during the twelve (12) month period beginning July 1 of
 29 that calendar year and ending June 30 of the immediately succeeding
 30 ~~calendar year; determined under subsection (a) plus the amount of~~
 31 **interest in the county's account that has accrued and has not been**
 32 **included in a certification made in a preceding year.** The amount
 33 certified is the county's "certified distribution" for the immediately
 34 succeeding calendar year. The amount certified ~~may~~ **shall** be adjusted,
 35 **as necessary, under subsection subsections (c), or (d), and (e). The**
 36 **department shall provide with the certification an informative**
 37 **summary of the calculations used to determine the certified**
 38 **distribution.**

(c) **In calendar year 2003, the department may shall, after reviewing the recommendation of the budget agency, certify to an adopting county for distribution in calendar year 2004 an amount that is greater than at least equal to the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 16 of this chapter: amount certified in 2002 for distribution in 2003. However, if the county income tax council reduced the county option income tax rate by ordinance adopted after December 31, 2001, the amount certified must reflect the reduced tax rate.**

(d) **The department may shall certify an amount less than the estimated twelve (12) month revenue collection amount determined under subsections (b) and (c), if the department, after reviewing the recommendation of the state budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year: the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution, including any overpayment resulting from the application of subsection (c). The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.**

(e) **The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.**

(f) **One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.**

(f) ~~Except as provided in section 2.5 of this chapter,~~ (g) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

~~(g)~~ (h) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 7. IC 6-3.5-6-17.2, AS ADDED BY P.L.178-2002, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.2. Before ~~July 2~~ **October 2** of each year, the department shall submit a report to each county auditor indicating the following:

~~(1) The balance in the county's special account as of the end of the preceding year.~~

~~(2) The required six (6) month balance or three (3) month balance, if the county has adopted an ordinance under:~~

~~(A) section 17.4 of this chapter;~~

~~(B) section 17.5 of this chapter; or~~

~~(C) section 17.6 of this chapter;~~

~~before the end of the preceding year. cut-off date set by the budget agency.~~

SECTION 8. IC 6-3.5-6-17.3, AS ADDED BY P.L.178-2002, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year~~ **exists in a county account** in excess of the ~~required six (6) or three (3) month balance,~~ **amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year,** the department may make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated and used in the same manner as certified distributions.

(c) A determination under this section must be made before ~~July 2:~~ **October 2.**

SECTION 9. IC 6-3.5-6-19, AS AMENDED BY P.L.90-2002, SECTION 297, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 19. (a) Except as provided in sections ~~17.6(d)~~, 18(e) and 18.5(b)(3) of this chapter, in determining the fractional share of distributive shares the civil taxing units of a county are entitled to receive under section 18 of this chapter during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(b) In determining the amount of distributive shares a civil taxing unit is entitled to receive under section 18(g) of this chapter, the department of local government finance shall consider only the percentage of the civil taxing unit's budget that equals the ratio that the total assessed valuation that lies within the civil taxing unit and the county that has adopted the county option tax bears to the total assessed valuation that lies within the civil taxing unit.

(c) The distributive shares to be allocated and distributed under this chapter shall be treated by each civil taxing unit as additional revenue for the purpose of fixing its budget for the budget year during which the distributive shares is to be distributed to the civil taxing unit.

(d) In the case of a civil taxing unit that includes a consolidated city its fiscal body may distribute any revenue it receives under this chapter to any governmental entity located in its county except an excluded city, a township, or a school corporation.

SECTION 10. IC 6-3.5-7-10.5, AS ADDED BY P.L.178-2002, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 10.5. Before ~~July~~ **October** 2 of each year, the department shall submit a report to each county auditor indicating the following:

(1) ~~The balance in the county's special account as of the end of the preceding year.~~

(2) ~~The required six (6) month balance as of the end of the preceding year.~~ **cut-off date set by the budget agency.**

SECTION 11. IC 6-3.5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before ~~July~~ **August** 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the **sum of the** amount of county economic development income tax revenue that ~~will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year.~~ **the department determines has been:**

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified ~~may~~ **shall** be adjusted under ~~subsection~~ **subsections (c), or (d), (e), (f), and (g).** The department **shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

(c) **In calendar year 2003,** the department ~~may~~ **shall,** after reviewing the recommendation of the budget agency, certify to an adopting county **for distribution in calendar year 2004** an amount that is ~~greater than~~ **at least equal to** the ~~estimated twelve (12) month revenue collection~~ if the department, after reviewing the recommendation of the budget agency, determines that there will be a ~~greater amount of revenue available for distribution from the county's account established under section 10 of this chapter.~~ **amount certified in 2002 for distribution in 2003. However, if the entity imposing the tax reduces the tax by ordinance adopted after December 31, 2001, the amount certified shall reflect the reduced tax rate.**

(d) The department ~~may~~ **shall** certify an amount less than the ~~estimated twelve (12) month revenue collection~~ **amount determined**

1 **under subsections (b) and (c), if the department, after reviewing the**
 2 **recommendation of the budget agency, determines that a part of those**
 3 **collections need to be distributed during the current calendar year so**
 4 **that the county will receive its full certified distribution for the current**
 5 **calendar year. the reduced distribution is necessary to offset**
 6 **overpayments made in a calendar year before the calendar year of**
 7 **the distribution, including any overpayment resulting from the**
 8 **application of subsection (c). The department, after reviewing the**
 9 **recommendation of the budget agency, may reduce the amount of**
 10 **the certified distribution over several calendar years so that any**
 11 **overpayments are offset over several years rather than in one (1)**
 12 **lump sum.**

13 (e) After reviewing the recommendation of the budget agency,
 14 the department shall adjust the certified distribution of a county to
 15 correct for any clerical or mathematical errors made in any
 16 previous certification under this section. The department, after
 17 reviewing the recommendation of the budget agency, may reduce
 18 the amount of the certified distribution over several calendar years
 19 so that any adjustment under this subsection is offset over several
 20 years rather than in one (1) lump sum.

21 (f) The department, after reviewing the recommendation of the
 22 budget agency, shall adjust the certified distribution of a county to
 23 provide the county with the distribution required under section
 24 16(b) of this chapter.

25 (g) The department, after reviewing the recommendation of the
 26 budget agency, shall adjust the certified distribution of a county to
 27 provide the county with the amount of any tax increase imposed
 28 under section 25 or 26 of this chapter to provide additional
 29 homestead credits as provided in those provisions.

30 SECTION 12. IC 6-3.5-7-17.3, AS ADDED BY P.L.178-2002,
 31 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation
 33 from the budget agency, the department determines that a sufficient
 34 balance existed at the end of the preceding year that exceeded the
 35 required six (6) month balance as of the end of the preceding exists in
 36 a county account in excess of the amount necessary, when added to
 37 other money that will be deposited in the account after the date of
 38 the recommendation, to make certified distributions to the county

- 1 **in the ensuing** year, the department may make a supplemental
 2 distribution to a county from the county's special account.
- 3 (b) A supplemental distribution described in subsection (a) must be:
 4 (1) made in January of the ensuing calendar year; and
 5 (2) allocated and used in the same manner as certified
 6 distributions.
- 7 (c) A determination under this section must be made before ~~July~~
 8 **October 2.**
- 9 SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE
 10 JUNE 1, 2003]: IC 6-3.5-1.1-9.5; IC 6-3.5-6-17.4; IC 6-3.5-6-17.5;
 11 IC 6-3.5-6-17.6; IC 6-3.5-7-19.
- 12 SECTION 14. **An emergency is declared for this act.**
 (Reference is to SB 166 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 14, Nays 0.

Borst

Chairperson